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7 CFR Ch. VII (1-1-01 Edition)

ASC committee. The State ASC committee shall also:

(1) Correct or require a county ASC committee to correct, any action taken by such county ASC committee which is not in accordance with this part, or

(2) Require a county ASC committee to withhold taking any action which is not in accordance with this part.

(d) FSA shall determine all yields and prices under this part and may utilize any agency of the Department of Agriculture in making such determinations. To the extent practicable, FSA will use data provided by the National Agricultural Statistical Service (NASS). Any reference in this part to NASS shall not restrict FSA from using data from other sources.

(e) No delegation herein to a State or county ASC committee shall preclude the Administrator, FSA, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county ASC committee.

§ 777.3 Definitions.

In determining the meanings of the provisions of this part, unless the context indicates otherwise, words imparting the singular include and apply to several persons or things, words imparting the plural include the singular, words imparting the masculine gender include the feminine as well, and words used in the present tense include the past and future as well as the present. The following terms shall have the following meanings and all other words and phrases shall have the meanings assigned to them in the regulations governing the reconstitution of farms in part 719 of this chapter.

Actual production means the quantity of soybeans and peanuts actually harvested and in the case of sugar beets and sugarcane the quantity of sugar produced from such crop, or which could have been harvested or produced as determined by the county ASC committee in accordance with instructions issued by the Deputy Administrator, State and County Operations (Deputy Administrator), (FSA). Such quantity includes all harvest acreages including sugarcane harvested for seed.

Disaster payment yield means as applicable, the average of actual yields for

the years 1987 through 1989 in accordance with instructions issued by the Deputy Administrator or the county average yield for the crop, established by FSA. Such county average yield shall be the average of the county average yields, including seed cane production, for the years 1985 through 1989 as determined by NASS, excluding the year in which the yield was the highest and the year in which the yield was the lowest.

Eligible crop means the 1990 crop of sugarcane, sugar beets, soybeans and peanuts.

Eligible disaster means a December 1989 frost or freeze.

Eligible producer means, with respect to an eligible crop for which an application for disaster payment has been made under this part, a person who as owner, landlord, tenant, or share-cropper is entitled to share in such crops, or the proceeds therefrom, available for marketing from the farm or would have been if such crop had been produced. Such person includes the producer who was on the farm at the time of the 1989 freeze and who may or may not have been the producer who harvested the 1990 crop.

Expected production means the disaster yield times the sum of the 1990 planted acreage of the crop and the 1990 prevented planted acreage of the crop.

§ 777.4 Availability of disaster payments.

Disaster payments will be made available to eligible producers of 1990 crop of an eligible crop who suffered losses because of the occurrence of an eligible disaster in 1989.

§ 777.5 Disaster benefits.

(a) Disaster payments for low yield losses on 1990 crop of sugarcane are authorized to be made to producers who file a CCC-441SU, Application for 1990 Disaster Benefits, if:

(1) The farm operator submits an Application for Disaster Credit (Form FSA-574), in accordance with instructions issued by the Deputy Administrator;

(2) The farm operator submits a record of Production and Yield (Form FSA-658) in accordance with §1477.7; and

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(3) The county ASC committee determines that because of an eligible disaster condition, producers on a farm were able to harvest less than 60 percent of the expected production of an eligible crop in 1990.

(b) Each eligible producer's share of a disaster payment shall be based on the eligible producer's share of the crop or the proceeds therefrom or, if no crop was produced, the share which the eligible producer would have otherwise received if the crop had been produced.

§ 777.6 Filing application for payment.

(a) Applications for payment shall be filed by the applicant with the county FSA office serving the county where the producer's farm is located for administrative purposes.

(b) An application for payment shall be filed as soon as practicable after the producer's eligibility has been established in accordance with § 777.5(a). Applications for payment must be filed no later than June 28, 1991.

§ 777.7 Report of acreage, production disposition, and indemnity payments.

(a) Eligible producers shall report, in accordance with instructions issued by the Deputy Administrator, the acreage, production, and disposition of all eligible crops produced in 1990 on an acreage for which an application for a disaster payment is filed. Such production reports must be filed no later than the date established by the Deputy Administrator.

(b) If there has been a disposition of crop production through commercial channels, the eligible producer must furnish documentary evidence of such disposition or provide FSA the authority necessary in order to verify the information provided on the report. Such authority includes access to producers' disposition documents of warehousemen and processors. Acceptable evidence shall include, but not limited to, such items as the original or a copy of commercial receipts, CCC loan documents, settlement sheets, or records of sugar production.

(c) If there has been a disposition of crop production other than through commercial channels, such as seed cane, the eligible producer must fur-

nish such documentary evidence as the county ASC committee determines to be necessary in order to verify the information provided by the producer.

§ 777.8 Availability of funds.

In the event the total amount of all claims submitted exceeds \$11 million, each payment shall be reduced by a uniform percentage.

§ 777.9 Misrepresentation, scheme and device, and fraud.

(a) If FSA determines that any producer has erroneously represented any fact or has adopted, participated in, or benefited from, any scheme or device which has the effect of defeating, or is designed to defeat the purpose of this part, such producer shall not be eligible for disaster payments under this part and all payments previously made to any such producer shall be refunded to FSA. The amount paid to FSA shall include any interest and other amounts as determined in accordance with this part.

(b) If any misrepresentation, scheme or device, or practice has been employed for the purpose of causing FSA to make a payment which FSA under this part otherwise would not make, all amounts paid by FSA to any such producer shall be refunded to FSA together with interest and other amounts as determined in accordance with this part, and no further disaster payments shall be made to such producer by FSA.

(c) If the county ASC committee determines that any producer has adopted or participated in any practice which tends to defeat the purpose of the program established in accordance with this part, the county committee shall withhold or require to be refunded all or part of the payments which otherwise would be due the producer under this part.

§ 777.10 Refunds to CCC.

(a) In the event that there is a failure to comply with any term, requirement, or condition for payment made in accordance with this part, all such payments made to the producer shall be refunded to FSA, together with interest.

(b) Producers must refund to FSA any excess payments made by FSA.